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6

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MARLINA PIERCE,
11 Plaintiff,

12 v.

13 NATIONAL LIFE INSURANCE
14 COMPANY; LIFE INSURANCE
15 COMPANY OF THE SOUTHWEST;
and DOES 1 through 15, inclusive,
16 Defendant.

Case No. 2:24-cv-00071-JAK-MAAx
**STIPULATED PROTECTIVE
ORDER**

17
18 **1. PURPOSES AND LIMITATIONS**

19 Discovery in this action is likely to involve production of confidential,
20 proprietary, or private information for which special protection from public disclosure
21 and from use for any purpose other than prosecuting this litigation may be warranted.
22 Accordingly, the parties hereby stipulate to and petition the Court to enter the
23 following Stipulated Protective Order. The parties acknowledge that this Stipulated
24 Protective Order does not confer blanket protections on all disclosures or responses
25 to discovery and that the protection it affords from public disclosure and use extends
26 only to the limited information or items that are entitled to confidential treatment
27 under the applicable legal principles. The parties further acknowledge, as set forth in
28 Section 13.3 below, that this Stipulated Protective Order does not entitle them to file

1 confidential information under seal; Local Rule 79-5 sets forth the procedures that
2 must be followed and the standards that will be applied when a party seeks permission
3 from the Court to file material under seal.

4 **2. GOOD CAUSE STATEMENT**

5 This action is likely to involve trade secrets and other valuable research,
6 development, commercial, financial, technical and/or proprietary information for
7 which special protection from public disclosure and from use for any purpose other
8 than prosecution of this action is warranted. Such confidential and proprietary
9 materials and information consist of, among other things, confidential business
10 information, information regarding confidential business practices, or other
11 confidential research, development, or commercial information (including
12 information implicating privacy rights of third parties), information otherwise
13 generally unavailable to the public, or which may be privileged or otherwise protected
14 from disclosure under state or federal statutes, court rules, case decisions, or common
15 law. Accordingly, to expedite the flow of information, to facilitate the prompt
16 resolution of disputes over confidentiality of discovery materials, to adequately
17 protect information the parties are entitled to keep confidential, to ensure that the
18 parties are permitted reasonable necessary uses of such material in preparation for and
19 in the conduct of trial, to address their handling at the end of the litigation, and to
20 serve the ends of justice, a protective order for such information is justified in this
21 matter. It is the intent of the parties that information will not be designated as
22 confidential for tactical reasons and that nothing be so designated without a good faith
23 belief that it has been maintained in a confidential, non-public manner, and there is
24 good cause why it should not be part of the public record of this case.

25 **3. DEFINITIONS**

26 3.1 Action: *Marlina Pierce v. Life Insurance Company of the Southwest*,
27 Case No. 2:24-cv-00071-JAK-MAAx.

28 3.2 Challenging Party: A Party or Nonparty that challenges the designation

1 of information or items under this Stipulated Protective Order.

2 3.3 “CONFIDENTIAL” Information or Items: Information (regardless of
3 how it is generated, stored or maintained) or tangible things that qualify for protection
4 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
5 Cause Statement.

6 3.4 Counsel: Outside Counsel of Record and In-House Counsel (as well as
7 their support staff).

8 3.5 Designating Party: A Party or Nonparty that designates information or
9 items that it produces in disclosures or in responses to discovery as
10 “CONFIDENTIAL.”

11 3.6 Disclosure or Discovery Material: All items or information, regardless
12 of the medium or manner in which it is generated, stored, or maintained (including,
13 among other things, testimony, transcripts, and tangible things), that is produced or
14 generated in disclosures or responses to discovery in this matter.

15 3.7 Expert: A person with specialized knowledge or experience in a matter
16 pertinent to the litigation who has been retained by a Party or its counsel to serve as
17 an expert witness or as a consultant in this Action.

18 3.8 In-House Counsel: Attorneys who are employees of a party to this
19 Action. In-House Counsel does not include Outside Counsel of Record or any other
20 outside counsel.

21 3.9 Nonparty: Any natural person, partnership, corporation, association, or
22 other legal entity not named as a Party to this action.

23 3.10 Outside Counsel of Record: Attorneys who are not employees of a party
24 to this Action but are retained to represent or advise a party to this Action and have
25 appeared in this Action on behalf of that party or are affiliated with a law firm which
26 has appeared on behalf of that party, and includes support staff.

27 3.11 Party: Any party to this Action, including all of its officers, directors,
28 employees, consultants, retained experts, In-House Counsel, and Outside Counsel of

1 Record (and their support staffs).

2 3.12 Producing Party: A Party or Nonparty that produces Disclosure or
3 Discovery Material in this Action.

4 3.13 Professional Vendors: Persons or entities that provide litigation support
5 services (e.g., photocopying, videotaping, translating, preparing exhibits or
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)
7 and their employees and subcontractors.

8 3.14 Protected Material: Any Disclosure or Discovery Material that is
9 designated as “CONFIDENTIAL.”

10 3.15 Receiving Party: A Party that receives Disclosure or Discovery Material
11 from a Producing Party.

12 **4. SCOPE**

13 The protections conferred by this Stipulated Protective Order cover not only
14 Protected Material, but also (1) any information copied or extracted from Protected
15 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
16 and (3) any testimony, conversations, or presentations by Parties or their Counsel that
17 might reveal Protected Material.

18 Any use of Protected Material at trial shall be governed by the orders of the
19 trial judge. This Stipulated Protective Order does not govern the use of Protected
20 Material at trial.

21 **5. DURATION**

22 Even after final disposition of this litigation, the confidentiality obligations
23 imposed by this Stipulated Protective Order shall remain in effect until a Designating
24 Party agrees otherwise in writing or a court order otherwise directs. Final disposition
25 shall be deemed to be the later of (1) dismissal of all claims and defenses in this
26 Action, with or without prejudice; and (2) final judgment herein after the completion
27 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
28 including the time limits for filing any motions or applications for extension of time

1 pursuant to applicable law.

2 **6. DESIGNATING PROTECTED MATERIAL**

3 6.1 Exercise of Restraint and Care in Designating Material for Protection.

4 Each Party or Nonparty that designates information or items for protection
5 under this Stipulated Protective Order must take care to limit any such designation to
6 specific material that qualifies under the appropriate standards. The Designating Party
7 must designate for protection only those parts of material, documents, items, or oral
8 or written communications that qualify so that other portions of the material,
9 documents, items, or communications for which protection is not warranted are not
10 swept unjustifiably within the ambit of this Stipulated Protective Order.

11 Mass, indiscriminate, or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
14 unnecessary expenses and burdens on other parties) may expose the Designating Party
15 to sanctions.

16 6.2 Manner and Timing of Designations.

17 Except as otherwise provided in this Stipulated Protective Order (*see, e.g.*,
18 Section 6.2(a)), or as otherwise stipulated or ordered, Disclosure or Discovery
19 Material that qualifies for protection under this Stipulated Protective Order must be
20 clearly so designated before the material is disclosed or produced.

21 Designation in conformity with this Stipulated Protective Order requires the
22 following:

23 (a) For information in documentary form (*e.g.*, paper or electronic
24 documents, but excluding transcripts of depositions or other pretrial or trial
25 proceedings), that the Producing Party affix at a minimum, the legend
26 “CONFIDENTIAL” to each page that contains protected material. If only a portion
27 or portions of the material on a page qualifies for protection, the Producing Party also
28 must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings

1 in the margins).

2 A Party or Nonparty that makes original documents available for inspection
3 need not designate them for protection until after the inspecting Party has indicated
4 which documents it would like copied and produced. During the inspection and before
5 the designation, all of the material made available for inspection shall be deemed
6 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
7 copied and produced, the Producing Party must determine which documents, or
8 portions thereof, qualify for protection under this Stipulated Protective Order. Then,
9 before producing the specified documents, the Producing Party must affix the legend
10 “CONFIDENTIAL” to each page that contains Protected Material. If only a portion
11 or portions of the material on a page qualifies for protection, the Producing Party also
12 must clearly identify the protected portion(s) (e.g., by making appropriate markings
13 in the margins).

14 (b) For testimony given in depositions, that the Designating Party
15 identify the Disclosure or Discovery Material on the record, before the close of the
16 deposition, all protected testimony. When it is impractical to identify separately each
17 portion of testimony that is entitled to protection, and when it appears that substantial
18 portions of the testimony may qualify for protection, the designating party may invoke
19 on the record (before the deposition is concluded) a right to have up to 20 days after
20 receipt of the transcripts from the court reporter to identify the specific portions of the
21 testimony as to which protection is sought. Only those portions of the testimony that
22 are appropriately designated for protection within 20 days shall be covered by this
23 Stipulated Protective Order.

24 (c) For information produced in nondocumentary form, and for any
25 other tangible items, that the Producing Party affix in a prominent place on the exterior
26 of the container or containers in which the information is stored the legend
27 “CONFIDENTIAL.” If only a portion or portions of the information warrants
28 protection, the Producing Party, to the extent practicable, shall identify the protected

1 portion(s).

2 6.3 Inadvertent Failure to Designate.

3 If timely corrected, an inadvertent failure to designate qualified information or
4 items does not, standing alone, waive the Designating Party's right to secure
5 protection under this Stipulated Protective Order for such material. Upon timely
6 correction of a designation, the Receiving Party must make reasonable efforts to
7 assure that the material is treated in accordance with the provisions of this Stipulated
8 Protective Order.

9 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 7.1 Timing of Challenges.

11 Any Party or Nonparty may challenge a designation of confidentiality at any
12 time that is consistent with the Court's Scheduling Order.

13 7.2 Meet and Confer.

14 The Challenging Party shall initiate the dispute resolution process, which shall
15 comply with Local Rule 37.1 et seq., and with Section 4 of Judge Audero's Procedures
16 ("Mandatory Telephonic Conference for Discovery Disputes").¹

17 7.3 Burden of Persuasion.

18 The burden of persuasion in any such challenge proceeding shall be on the
19 Designating Party. Frivolous challenges, and those made for an improper purpose
20 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
21 expose the Challenging Party to sanctions. Unless the Designating Party has waived
22 or withdrawn the confidentiality designation, all parties shall continue to afford the
23 material in question the level of protection to which it is entitled under the Producing
24 Party's designation until the Court rules on the challenge.

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27 ¹ Judge Audero's Procedures are available at
28 <https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 **8. ACCESS TO AND USE OF PROTECTED MATERIALS**

2 8.1 Basic Principles.

3 A Receiving Party may use Protected Material that is disclosed or produced by
4 another Party or by a Nonparty in connection with this Action only for prosecuting,
5 defending, or attempting to settle this Action. Such Protected Material may be
6 disclosed only to the categories of persons and under the conditions described in this
7 Stipulated Protective Order. When the Action reaches a final disposition, a Receiving
8 Party must comply with the provisions of Section 14 below.

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Stipulated Protective Order.

12 8.2 Disclosure of “CONFIDENTIAL” Information or Items.

13 Unless otherwise ordered by the Court or permitted in writing by the
14 Designating Party, a Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

16 (a) The Receiving Party’s Outside Counsel of Record, as well as
17 employees of said Outside Counsel of Record to whom it is reasonably necessary to
18 disclose the information for this Action;

19 (b) The officers, directors, and employees (including In-House
20 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
21 Action;

22 (c) Experts of the Receiving Party to whom disclosure is reasonably
23 necessary for this Action and who have signed the “Acknowledgment and Agreement
24 to Be Bound” (Exhibit A);

25 (d) The Court and its personnel;

26 (e) Court reporters and their staff;

27 (f) Professional jury or trial consultants, mock jurors, and
28 Professional Vendors to whom disclosure is reasonably necessary or this Action and

1 who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A);

2 (g) The author or recipient of a document containing the information
3 or a custodian or other person who otherwise possessed or knew the information;

4 (h) During their depositions, witnesses, and attorneys for witnesses,
5 in the Action to whom disclosure is reasonably necessary provided: (i) the deposing
6 party requests that the witness sign the “Acknowledgment and Agreement to Be
7 Bound” (Exhibit A); and (ii) the witness will not be permitted to keep any confidential
8 information unless they sign the “Acknowledgment and Agreement to Be Bound,”
9 unless otherwise agreed by the Designating Party or ordered by the Court. Pages of
10 transcribed deposition testimony or exhibits to depositions that reveal Protected
11 Material may be separately bound by the court reporter and may not be disclosed to
12 anyone except as permitted under this Stipulated Protective Order; and

13 (i) Any mediator or settlement officer, and their supporting
14 personnel, mutually agreed upon by any of the parties engaged in settlement
15 discussions.

16 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
17 **PRODUCED IN OTHER LITIGATION**

18 If a Party is served with a subpoena or a court order issued in other litigation
19 that compels disclosure of any information or items designated in this Action as
20 “CONFIDENTIAL,” that Party must:

21 (a) Promptly notify in writing the Designating Party. Such
22 notification shall include a copy of the subpoena or court order;

23 (b) Promptly notify in writing the party who caused the subpoena or
24 order to issue in the other litigation that some or all of the material covered by the
25 subpoena or order is subject to this Stipulated Protective Order. Such notification shall
26 include a copy of this Stipulated Protective Order; and

27 (c) Cooperate with respect to all reasonable procedures sought to be
28 pursued by the Designating Party whose Protected Material may be affected.

1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this action
3 as “CONFIDENTIAL” before a determination by the Court from which the subpoena
4 or order issued, unless the Party has obtained the Designating Party’s permission. The
5 Designating Party shall bear the burden and expense of seeking protection in that court
6 of its confidential material and nothing in these provisions should be construed as
7 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
8 directive from another court.

9 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
10 **PRODUCED IN THIS LITIGATION**

11 10.1 Application.

12 The terms of this Stipulated Protective Order are applicable to information
13 produced by a Nonparty in this Action and designated as “CONFIDENTIAL.” Such
14 information produced by Nonparties in connection with this litigation is protected by
15 the remedies and relief provided by this Stipulated Protective Order. Nothing in these
16 provisions should be construed as prohibiting a Nonparty from seeking additional
17 protections.

18 10.2 Notification.

19 In the event that a Party is required, by a valid discovery request, to produce a
20 Nonparty’s confidential information in its possession, and the Party is subject to an
21 agreement with the Nonparty not to produce the Nonparty’s confidential information,
22 then the Party shall:

23 (a) Promptly notify in writing the Requesting Party and the Nonparty
24 that some or all of the information requested is subject to a confidentiality agreement
25 with a Nonparty;

26 (b) Promptly provide the Nonparty with a copy of the Stipulated
27 Protective Order in this Action, the relevant discovery request(s), and a reasonably
28 specific description of the information requested; and

1 (c) Make the information requested available for inspection by the
2 Nonparty, if requested.

3 10.3 Conditions of Production.

4 If the Nonparty fails to seek a protective order from this Court within fourteen
5 (14) days after receiving the notice and accompanying information, the Receiving
6 Party may produce the Nonparty's confidential information responsive to the
7 discovery request. If the Nonparty timely seeks a protective order, the Receiving Party
8 shall not produce any information in its possession or control that is subject to the
9 confidentiality agreement with the Nonparty before a determination by the Court.
10 Absent a court order to the contrary, the Nonparty shall bear the burden and expense
11 of seeking protection in this Court of its Protected Material.

12 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

13 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
14 Protected Material to any person or in any circumstance not authorized under this
15 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
16 writing the Designating Party of the unauthorized disclosures, (2) use its best efforts
17 to retrieve all unauthorized copies of the Protected Material, (3) inform the person or
18 persons to whom unauthorized disclosures were made of all the terms of this
19 Stipulated Protective Order, and (4) request such person or persons to execute the
20 "Acknowledgment and Agreement to be Bound" (Exhibit A).

21 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
22 **PROTECTED MATERIAL**

23 When a Producing Party gives notice to Receiving Parties that certain
24 inadvertently produced material is subject to a claim of privilege or other protection,
25 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
26 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
27 may be established in an e-discovery order that provides for production without prior
28 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the

1 parties reach an agreement on the effect of disclosure of a communication or
2 information covered by the attorney-client privilege or work product protection, the
3 parties may incorporate their agreement in the Stipulated Protective Order submitted
4 to the Court.

5 **13. MISCELLANEOUS**

6 13.1 Right to Further Relief.

7 Nothing in this Stipulated Protective Order abridges the right of any person to
8 seek its modification by the Court in the future.

9 13.2 Right to Assert Other Objections.

10 By stipulating to the entry of this Stipulated Protective Order, no Party waives
11 any right it otherwise would have to object to disclosing or producing any information
12 or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
13 Party waives any right to object on any ground to use in evidence of any of the
14 material covered by this Stipulated Protective Order.

15 13.3 Filing Protected Material.

16 A Party that seeks to file under seal any Protected Material must comply with
17 Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court
18 order authorizing the sealing of the specific Protected Material at issue. If a Party's
19 request to file Protected Material under seal is denied by the Court, then the Receiving
20 Party may file the information in the public record unless otherwise instructed by the
21 Court.

22 **14. FINAL DISPOSITION**

23 After the final disposition of this Action, within sixty (60) days of a written
24 request by the Designating Party, each Receiving Party must return all Protected
25 Material to the Producing Party or destroy such material. As used in this subdivision,
26 "all Protected Material" includes all copies, abstracts, compilations, summaries, and
27 any other format reproducing or capturing any of the Protected Material. Whether the
28 Protected Material is returned or destroyed, the Receiving Party must submit a written

1 certification to the Producing Party (and, if not the same person or entity, to the
2 Designating Party) by the 60-day deadline that (1) identifies (by category, where
3 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
4 that the Receiving Party has not retained any copies, abstracts, compilations,
5 summaries or any other format reproducing or capturing any of the Protected Material.
6 Notwithstanding this provision, Counsel is entitled to retain an archival copy of all
7 pleadings; motion papers; trial, deposition, and hearing transcripts; legal memoranda;
8 correspondence; deposition and trial exhibits; expert reports; attorney work product;
9 and consultant and expert work product, even if such materials contain Protected
10 Material. Any such archival copies that contain or constitute Protected Material
11 remain subject to this Stipulated Protective Order as set forth in Section 5.

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1 **15. VIOLATION**

2 Any violation of this Stipulated Order may be punished by any and all
3 appropriate measures including, without limitation, contempt proceedings and/or
4 monetary sanctions.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

6 Dated: September 16, 2024

ADEPT LAW FIRM

7
8
9 By: //s/ Joseph Fogel

10 Joseph Fogel
11 Attorneys for Plaintiff
MARLINA PIERCE

12 Dated: September 16, 2024

BURKE, WILLIAMS & SORENSEN, LLP

14
15 By: //s/ Jason A. James

16 Jason A. James
17 Attorneys for Defendant
18 LIFE INSURANCE COMPANY OF
THE SOUTHWEST

19
20 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

21 Dated: September 16, 2024


22 Hon. Maria A. Audero
23 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
_____ [address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the United
States District Court for the Central District of California on _____ [date] in the
case of *Marlina Pierce v. Life Insurance Company of the Southwest*, Case No. 2:24-cv-
00071-JAK-MAAx. I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order, and I understand and acknowledge that failure to so comply
could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any person or entity except in strict compliance with
the provisions of this Stipulated Protective Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Central District of California for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this
action. I hereby appoint _____ [full name] of
_____ [address and telephone number] as my
California agent for service of process in connection with this action or any proceedings
related to enforcement of this Stipulated Protective Order.

Signature _____

Printed Name: _____

Date: _____

City and State Where Sworn and Signed: _____